

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #13	CCRB Case #: 201901453	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/16/2019 2:30 PM	Location of Incident: 47-07 Broadway; 115th Precinct stationhouse	Precinct: 114	18 Mo. SOL 8/16/2020	EO SOL 4/2/2021	
Date/Time CV Reported Sat, 02/16/2019 4:26 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 02/16/2019 4:26 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Richard Charles	03186	939991	NARCBQN
2. DT3 Ricardo Moreno	343	939077	NARCBQN
3. DT3 Philip Smith	1549	948429	NARCBQN
4. SGT Pete Massa	02193	904471	114 PCT
5. LT Joseph Dean	00000	932535	115 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Cydnee Davis	30700	965032	115 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Philip Smith	Abuse: At 47-07 Broadway in Queens, Detective Philip Smith stopped § 87(2)(b)	
B.DT3 Philip Smith	Abuse: At 47-07 Broadway in Queens, Detective Philip Smith stopped § 87(2)(b)	
C.DT3 Ricardo Moreno	Abuse: At 47-07 Broadway in Queens, Detective Ricardo Moreno stopped § 87(2)(b)	
D.DT3 Ricardo Moreno	Abuse: At 47-07 Broadway in Queens, Detective Ricardo Moreno stopped § 87(2)(b)	
E.DT3 Richard Charles	Abuse: At 47-07 Broadway in Queens, Detective Richard Charles stopped § 87(2)(b)	
F.DT3 Richard Charles	Abuse: At 47-07 Broadway in Queens, Detective Richard Charles stopped § 87(2)(b)	
G.DT3 Philip Smith	Abuse: At 47-07 Broadway in Queens, Detective Philip Smith searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
H.DT3 Philip Smith	Abuse: At 47-07 Broadway in Queens, Detective Philip Smith damaged § 87(2)(b)'s property.	
I.DT3 Richard Charles	Abuse: At 47-07 Broadway in Queens, Detective Richard Charles frisked § 87(2)(b)	
J.DT3 Richard Charles	Discourtesy: At 47-07 Broadway in Queens, Detective Richard Charles spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
K.DT3 Richard Charles	Abuse: At 47-07 Broadway in Queens, Detective Richard Charles refused to provide his shield number to § 87(2)(b) [REDACTED]	[REDACTED]
L.DT3 Philip Smith	Abuse: At 47-07 Broadway in Queens, Detective Philip Smith failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
M.DT3 Philip Smith	Abuse: At 47-07 Broadway in Queens, Detective Philip Smith failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
N.DT3 Richard Charles	Abuse: At 47-07 Broadway in Queens, Detective Richard Charles failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
O.DT3 Richard Charles	Abuse: At 47-07 Broadway in Queens, Detective Richard Charles failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
P.DT3 Ricardo Moreno	Abuse: At 47-07 Broadway in Queens, Detective Ricardo Moreno failed to provide § 87(2)(b) [REDACTED] with a business card.	[REDACTED]
Q.DT3 Ricardo Moreno	Abuse: At 47-07 Broadway in Queens, Detective Ricardo Moreno failed to provide § 87(2)(b) [REDACTED] with a business card	[REDACTED]
R.SGT Pete Massa	Abuse: At the 114th Precinct stationhouse, Sergeant Pete Massa did not process § 87(2)(b) [REDACTED] s complaint regarding officers.	[REDACTED]
S.LT Joseph Dean	Abuse: At the 115th Precinct stationhouse, Lieutenant Joseph Dean did not process § 87(2)(b) [REDACTED] s complaint regarding officers.	[REDACTED]
§ 87(4-b), § 87(2)(g) [REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Case Summary

On February 16, 2019, § 87(2)(b) filed this complaint on behalf of himself and his fiancé, § 87(2)(b) with the CCRB via the Call Processing System.

On February 16, 2019, at approximately 2:30 p.m., § 87(2)(b) and § 87(2)(b) exited a Rite Aid pharmacy located at 47-07 Broadway in Queens and entered § 87(2)(b)'s vehicle, which was illegally parked in a handicap spot in the Rite Aid parking lot. Before § 87(2)(b) could turn on his vehicle's engine, Det. Philip Smith, Det. Richard Charles, and Det. Richardo Moreno of Narcotics Borough Queens North stopped § 87(2)(b) and § 87(2)(b) (**Allegations A, B, C, D, E, and F: Abuse of Authority** – § 87(2)(g), § 87(2)(b) and § 87(2)(b) exited § 87(2)(b)'s vehicle and Det. Charles frisked § 87(2)(b) (**Allegation G: Abuse of Authority** – § 87(2)(g)). Det. Smith searched and damaged § 87(2)(b)'s vehicle (**Allegations H and I: Abuse of Authority** – § 87(2)(g), § 87(2)(b) protested the validity of the stop and Det. Charles asked him, "What are you, advocating to become a fucking lawyer?" (**Allegation J: Discourtesy** – § 87(2)(g)). § 87(2)(b) asked Det. Charles for his shield number and he refused to provide the information (**Allegation K: Abuse of Authority** – § 87(2)(g)). The officers left and failed to provide § 87(2)(b) and § 87(2)(b) with business cards (**Allegations L, M, N, O, P, and Q: Abuse of Authority** – § 87(2)(g)). At approximately 3:38 p.m., § 87(2)(b) went to the 114th Precinct stationhouse to file a complaint regarding the incident, and Sgt. Pete Massa of the 114th Precinct refused to process § 87(2)(b)'s complaint (**Allegation R: Abuse of Authority** – § 87(2)(g)). At approximately 4:14 p.m., § 87(2)(b) went to the 115th Precinct stationhouse to file a complaint regarding the incident. Lt. Joseph Dean refused to process § 87(2)(b)'s complaint (**Allegation S: Abuse of Authority** – § 87(2)(g), § 87(4-b), § 87(2)(g)).

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) No arrests or summonses resulted from this incident.

There is no video evidence in this case.

Findings and Recommendations

Allegation A – Abuse of Authority: At 47-07 Broadway in Queens, Detective Philip Smith stopped § 87(2)(b)

Allegation B – Abuse of Authority: At 47-07 Broadway in Queens, Detective Philip Smith stopped § 87(2)(b)

Allegation C – Abuse of Authority: At 47-07 Broadway in Queens, Detective Ricardo Moreno stopped § 87(2)(b)

Allegation D – Abuse of Authority: At 47-07 Broadway in Queens, Detective Ricardo Moreno stopped § 87(2)(b)

Allegation E – Abuse of Authority: At 47-07 Broadway in Queens, Detective Richard Charles stopped § 87(2)(b)

Allegation F – Abuse of Authority: At 47-07 Broadway in Queens, Detective Richard Charles stopped § 87(2)(b)

It is undisputed that § 87(2)(b) with § 87(2)(b) in the passenger seat, improperly and without a permit, parked his vehicle in a handicap spot in the parking lot of a Rite Aid Pharmacy and went shopping inside of the pharmacy. Upon reentering the vehicle, prior to starting the engine, Det. Smith, Det. Charles, and Det. Moreno stopped them for being parked in the handicap spot without a permit (**Board Review 01, 02, 03, 04**).

It is a violation for any person to stop, stand or park a vehicle in any area designated as a place for handicapped parking unless the vehicle bears a permit. NY Penal Law, Article 32 §1203-B (Board Review 05).

§ 87(2)(g)

Allegation G – Abuse of Authority: At 47-07 Broadway in Queens, Detective Philip Smith searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation H – Abuse of Authority: At 47-07 Broadway in Queens, Detective Philip Smith damaged § 87(2)(b) s property.

Allegation I – Abuse of Authority: At 47-07 Broadway in Queens, Detective Richard Charles frisked § 87(2)(b)

It is undisputed that Det. Smith, Det. Moreno, and Det. Charles ordered § 87(2)(b) and § 87(2)(b) to exit § 87(2)(b) s vehicle and that they complied. Det. Charles and Det. Moreno brought § 87(2)(b) and § 87(2)(b) to the rear of the vehicle, and Det. Smith searched the vehicle.

§ 87(2)(b) testified that his back was facing his vehicle when he heard a banging sound. When he turned around, he saw Det. Smith searching and banging on the driver’s door panel of the vehicle. § 87(2)(b) did not continue to watch the search of the vehicle and focused on Det. Charles and Det. Moreno. As § 87(2)(b) was standing at the rear of the vehicle, Det. Charles asked what he had on him and immediately patted his two front pants pockets. § 87(2)(b) stepped away from Det. Charles and told him he did not have anything on him. Det. Charles did not further frisk § 87(2)(b) (**Board Review 01**). When § 87(2)(b) returned to the vehicle at the end of the incident, the roof panel containing the switches for the sunroof was broken and hanging by a wire. § 87(2)(b) attributed the damage to Det. Smith banging on the interior panels of the vehicle (**Board Review 18**). § 87(2)(b) acknowledged that § 87(2)(b) had an E-cigarette with her during the incident, but did not specify where it was located and stated that it contained nicotine and denied that it contained marijuana (**Board Review 06**).

§ 87(2)(b) was uncooperative with the investigation (see IAs for contact attempts).

Det. Smith testified that prior to the stop, he smelled marijuana and observed § 87(2)(b) smoking a marijuana E-cigarette as she walked to the vehicle. Det. Moreno testified that Det. Smith informed him of the observation, though he did not see the device himself prior to the stop. Det. Charles did not know about the existence of the device prior to the stop. Det. Smith, Det. Charles, and Det. Moreno all said that upon approaching the vehicle, they smelled an odor of marijuana emitting from the vehicle. Det. Smith and Det. Charles both said they observed a marijuana vape in the center console cup holder. Det. Moreno differed in his testimony, stating that he did not see a marijuana E-cigarette in the vehicle prior to the vehicle being searched. Det. Charles testified that § 87(2)(b) admitted to him that the E-cigarette contained marijuana and that the device belonged to her (**Board Review 02, 03, 04**).

Det. Smith searched the vehicle because of the marijuana odor. He entered the vehicle through the driver’s door, looked in the center console, in the passenger seat, the floors, the crevasses next to the seats, the backseat, and, “anywhere they could have quick access to.” Det. Smith did not find any additional marijuana besides the E-cigarette. Det. Smith denied banging on the interior panels of the vehicle and denied damaging the roof panel (**Board Review 02**). Det. Smith and Det. Moreno denied seeing Det. Smith damage the roof panel (**Board Review 03, 04**).

Det. Charles testified that he “possibly” frisked § 87(2)(b). He did not specifically recall doing so, but stated that when individuals are brought to the rear of the vehicle, typically he will frisk them

for his safety (**Board Review 03**). Neither Det. Smith nor Det. Moreno saw Det. Charles frisk § 87(2)(b) (**Board Review 02, 04**).

§ 87(2)(g)

Allegation J – Abuse of Authority: At 47-07 Broadway in Queens, Detective Richard Charles spoke discourteously to § 87(2)(b)

Allegation K – Abuse of Authority: At 47-07 Broadway in Queens, Detective Richard Charles refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) testified that he asked Det. Charles if the officers had probable cause for the stop and vehicle search and Det. Charles responded, “What, are you advocating to become a fucking lawyer?” § 87(2)(b) asked Det. Charles for his shield number and precinct and Det. Charles did not acknowledge § 87(2)(b)'s request or provide the requested information (**Board Review 01**).

§ 87(2)(b) was uncooperative with the investigation (see IAs for contact attempts).

Det. Charles denied making the profane statement. He testified that § 87(2)(b) requested his name and shield number and said he provided the requested information to § 87(2)(b) at the time he requested the information (**Board Review 03**).

Det. Smith and Det. Moreno both denied hearing Det. Charles use profanity. They both denied hearing § 87(2)(b) request Det. Charles' shield number, and denied hearing Det. Charles ever provide his shield number to § 87(2)(b) (**Board Review 02, 04**).

§ 87(2)(g)

Allegation L – Abuse of Authority: At 47-07 Broadway in Queens, Detective Philip Smith failed to provide § 87(2)(b) with a business card.

Allegation M – Abuse of Authority: At 47-07 Broadway in Queens, Detective Philip Smith failed to provide § 87(2)(b) with a business card.

Allegation N – Abuse of Authority: At 47-07 Broadway in Queens, Detective Richard Charles failed to provide § 87(2)(b) with a business card.

Allegation O – Abuse of Authority: At 47-07 Broadway in Queens, Detective Richard Charles failed to provide § 87(2)(b) with a business card.

Allegation P – Abuse of Authority: At 47-07 Broadway in Queens, Detective Ricardo Moreno failed to provide § 87(2)(b) with a business card.

Allegation Q – Abuse of Authority: At 47-07 Broadway in Queens, Detective Ricardo Moreno failed to provide § 87(2)(b) with a business card.

It is undisputed that Det. Smith, Det. Charles, and Det. Moreno did not provide business cards to § 87(2)(b) and § 87(2)(b) during the incident. It is also undisputed that no arrest or summons resulted from this incident (**Board Review 01, 02, 03, 04**).

Det. Smith, Det. Charles, and Det. Moreno all said they knew the Right to Know Act required them to provide business cards to individuals who they stopped and took no enforcement action against, but that they failed to provide business cards to § 87(2)(b) and § 87(2)(b) during this incident. Det. Smith testified that he did not provide business cards to § 87(2)(b) and § 87(2)(b) because he was newly promoted to the rank of detective, and his business cards still had his old command, shield number, and rank on them. Det. Charles and Det. Moreno did not provide a reason for not providing their business cards (**Board Review 02, 03, 04**).

NYC Administrative Code, Section 14-174 states that officers are required to provide members of the public with business cards after law enforcement encounters, including stops, frisks, and vehicle searches, in which no summons is issued or arrest is made (**Board Review 07**).

§ 87(2)(g)

Allegation R – Abuse of Authority: At the 114th Precinct stationhouse, Sergeant Pete Massa did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) testified that after the incident, he went to the 114th Precinct stationhouse to attempt to file a complaint and that he encountered Sgt. Massa at the front desk, who told him to take a photo of the stationhouse CCRB sign and to contact the CCRB directly to file his complaint. Sgt. Massa did not process § 87(2)(b)'s complaint (**Board Review 01**).

The Department Advocates Office confirmed that Sgt. Massa has been on terminal leave since July 25, 2019, and that he is retiring from the NYPD (**Board Review 08**). § 87(2)(g)

Allegation S – Abuse of Authority: At the 115th Precinct stationhouse, Lieutenant Joseph Dean did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) testified that he left the 114th Precinct stationhouse and he went to the 115th Precinct stationhouse, where he spoke with PO Davis, the Telephone Switchboard Operator. He told PO Davis that he wished to file a complaint. PO Davis approached Lt. Dean, who was further inside of the stationhouse, and spoke with him. PO Davis returned with Lt. Dean, and PO Davis told § 87(2)(b) to take a photo of the CCRB sign and to contact the CCRB directly to file his complaint. § 87(2)(b) took a photo of the sign and left the stationhouse (**Board Review 01**).

§ 87(2)(b) provided a photo of the 115th Precinct stationhouse's CCRB sign that he took during this incident, including a timestamp showing that he took the photo at 4:14 p.m. (**Board Review 09**).

PO Davis confirmed that she was working as the Telephone Switchboard Operator and Lt. Dean confirmed that he was the Platoon Commander. Lt. Dean reviewed the roll call, confirmed its accuracy, and testified that he was the only lieutenant working during the tour of which this incident occurred. Lt. Dean reviewed the command log and confirmed that he signed in at the stationhouse at 2:45 p.m. However, neither PO Davis nor Lt. Dean recalled interacting with § 87(2)(b). Both officers denied refusing to process § 87(2)(b)'s complaint, and denied telling him to take a photo of the CCRB sign (**Board Review 10, 11**).

The command log does not contain an entry regarding § 87(2)(b) (**Board Review 20**).

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

§ 87(4-b), § 87(2)(g) [Redacted] -
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Civilian and Officer CCRB Histories

- This is the second CCRB complaint to which § 87(2)(b) [Redacted] has been a party.

